IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

WALTER RICE, ID # 07079333,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. **3:08-CV-0152-L**
	§	
ROSELINE MGBAKOR and	§	
DR. JOE HICKS OLIVER,*	§	
	§	
Defendants.	§	

<u>ORDER</u>

Before the court, in this civil rights action pursuant to 42 U.S.C. § 1983, is Defendants'

Motion for Summary Judgment, filed on July 24, 2009. Plaintiff Walter Rice ("Plaintiff") filed an

unsupported response to the motion on August 3, 2009. This case was referred to Magistrate Judge

Irma C. Ramirez, who filed her Findings, Conclusions and Recommendation ("Report") on

September 18, 2009. Plaintiff filed objections to the Report on September 29, 2009.

Plaintiff contends that his rights under the Eighth and Fourteenth Amendments were violated

when Defendant Dr. Joe Hicks Oliver and Defendant Roseline Mgbakor (collectively, "Defendants")

abruptly stopped issuing him prescribed medication while he was incarcerated in the Dallas County

Jail in 2005. Magistrate Judge Ramirez determined that Defendants' Motion for Summary Judgment

is supported by extensive competent and credible summary judgment evidence that no genuine issue

of material fact exists in this case, and that Defendants are therefore entitled to judgment as a matter

of law.

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*This action originally included two additional defendants: Lupe Valdez and Officer NFN Andrews.
Both of these defendants were dismissed and removed as parties from this case. Roseline Mgbakor and Dr.
Joe Hicks Oliver are the only remaining defendants in this action.
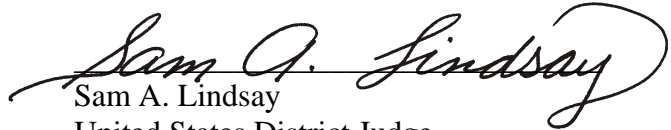
In his objections to the Report, Plaintiff does not contest any of the actual findings of the magistrate judge. Instead, he seems to argue that the evidence submitted by Defendants to support their motion for summary judgment actually proves his civil rights claim. Plaintiff argues that Defendants are not entitled to qualified immunity because they withheld medical treatment from him, thus violating the Eighth and Fourteenth Amendments through deliberate indifference. Plaintiff's principal argument is that Defendants' summary judgment evidence proves that his medication was actually stopped, a fact not disputed by Defendants. From that, Plaintiff proceeds with the conclusory allegation that Defendants were deliberately indifferent and therefore liable under section 1983.

Defendants have provided evidence that Plaintiff did not receive his medication for part of February and March 2005 because he was released from custody in January 2005 and his potentially serious medical complaints needed to first be evaluated. This showing does not indicate, or even suggest, deliberate indifference on the part of Defendants, and Plaintiff has offered no competent evidence in rebuttal. "Conclusory statements are not competent evidence to defeat summary judgment." *Turner v. Baylor Richardson Med. Ctr.*, 476 F.3d 337, 345 (5th Cir. 2007).

Accordingly, Plaintiff's objection to the evidence relied upon by the magistrate judge is without merit. Although Plaintiff is correct in that Defendants' evidence shows that his medical treatment was stopped, he is incorrect in his conclusion that the evidence proves deliberate indifference on the part of Defendants. Plaintiff's objections to the Report are **overruled.** The remainder of Plaintiff's objections restates the arguments made in his original civil rights complaint and in his unsupported response, which are arguments that have been addressed at length in the magistrate judge's Report. Accordingly, they are **overruled as moot.**

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Having reviewed the motion, file, record, and the Report in this case, the court determines that the findings and conclusions are correct. The magistrate judge's findings and conclusions are therefore **accepted** as those of the court. Accordingly, Defendants' Motion for Summary Judgment is **granted**, and Plaintiff's claims against Defendants are hereby **dismissed with prejudice**.

It is so ordered this 7th day of October, 2009.

Sam A. Lindsay
United States District Judge